



TOWN OF KITTERY

REPORT TO COUNCIL

Date: September 6, 2011

By: Jonathan Carter, Town Manager

Subject: Acceptance of a Comcast Cable TV Franchise Agreement

Executive Summary:

The term of the existing Cable TV Franchise Agreement terminates in September 2011. The existing agreement with Comcast has been in place for decades without an opportunity to update its conditions and benefits to the community. Comcast has submitted a proposed, best offer, 10 year Agreement utilizing an amended State of Maine Cable TV Franchise Agreement template effective September 12, 2011. The Town's Cable Attorney and the ORC have reviewed the document which is now before the Town Council to discuss and authorize its execution.

Statement of Need:

The current Cable TV Franchise ends in September 2011. Comcast has presented a proposed "best offer" Franchise Agreement which is recommended for acceptance and implementation by the Town Manager.

Background:

The Town has been attempting for over ten years to negotiate a Cable TV Franchise Agreement with Comcast. Comcast was not the original Cable TV Franchisee and took over the existing agreement when they purchased the prior Cable TV Company servicing Kittery and the surrounding Franchise district. Comcast maintained the terms and conditions and argued they could renew the agreement for an additional 10 year period which ends in September 2011. While Comcast updated its services to customers, the ability for the Town to provide to its residents live broadcasts over its Public Excess Governmental Channel 22 was vastly limited by the Franchise agreement to tape delayed broadcast of its Council Meetings. The proposed Comcast Agreement moves Kittery into the 21st century with its ability to program and broadcast live over Channel 22 from not only Town Hall which will become the Hub, but from several public facility locations around Kittery. It also provides the Town funds to assist with the purchase of equipment, fiber wiring and construction of the necessary studio(s) for its use.

Comcast has utilized the State of Maine Cable TV Franchise Agreement model which they have amended to fit their proposal. The agreement only regulates Comcast Cable TV and not its other products of internet and telephone. The FCC regulates today almost all of the activities of Cable TV in the Country with limited rights given to Franchise communities regarding pricing services.

Facts Bearing on the Equation and Current Situation:

Kittery has attempted to renegotiate a Cable TV Franchise for over a decade with Comcast. It has had to wait for the termination of the present agreement in the fall of 2011 to have the ability to negotiate a new agreement. While not, per se, negotiating the attached document, the amended model Franchise Agreement provides the best the Town is probably able to receive in benefits and services from Comcast for its citizens.

Proposed Solution / Recommendation:

Motion following the Public Hearing: *The Kittery Town Council moves to approve and authorize the Town Manager to sign the ten-year Cable TV Franchise agreement with Comcast and to establish a Cable TV Reserve Fund for Comcast payments and use in the operations of Channel 22.*

Rationale for the Proposed Solution (including costs)

The attached Cable TV Franchise Agreement provides the Town with the following benefits:

- Enhanced PEG Channel 22 services
 - Creating a Television hub at the Municipal Complex for live broadcast over Channel 22 to Comcast subscribers. Payment of \$125,000 from Comcast to assist with the construction, equipment and operations of the PEG Channel.
 - Direct tie in at the following locations to the Municipal Complex Hubsite: Up to \$150,000 towards this installation (allowed to be recouped from ratepayers)
 - Shapleigh Middle School
 - Traip Academy
 - Fire Station- Gorges Rd
 - Rice Public Library
 - Kittery Community Center at Frisbee Common
- 2% Franchise Fee=Approximately \$71,000 annually to support the PEG / Technology
- 2nd PEG Channel if Warranted and / or allowed to share PEG channel